

**REMARKS**

Claims 1-24 and 34-36 are pending in the present application. Claim 21 has been amended to depend upon claim 19 and to clarify the invention. Claim 22 has been amended to depend from claim 19. Claim 34 has been amended to depend from claim 20. New claims 35 and 36 find support in claims 23 and 24.

No new matter has been added by way of the above-amendment.

**Restriction Requirement**

The Examiner has required election under 35 USC 121 in the present application between:

**Group I**, claims 1-11, drawn to an apparatus for separating and purifying nucleic acids, classified in Class 422, subclass 68;

**Group II**, claims 12-20, drawn to a method for separating and purifying nucleic acids, classified in Class 435, subclass 6; and

**Group III**, claims 21-34, drawn to a method for separating and purifying nucleic acids, classified in Class 435, subclass 6.

**For the purpose of examination of the present application, Applicants elect, with traverse, Group II, Claims 12-20.**

With respect to the separation of method claims 12-20 (Group II) and method claims 21-34 (Group III), Applicants request rejoinder of pending claims 21-24 and 34-36 with method claims 12-20 in view of the above-amendment. All of dependent claims 13-24 and 34-36 now share a common independent claim, *i.e.*, claim 12. Accordingly, the search and examination of all of claims 21-24 and 34-36 would not require an undue burden.

With respect to the apparatus claims 1-11, Applicants also request rejoinder of these claims with the elected method claims. According to MPEP §803, if the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. As evidence of the undue burden, the Examiner has listed that class 422, subclass 68 is to be searched for Group I and class 435, subclass 6 is to be searched for Group II. In view of: i) the likelihood that a significant portion of the patents belonging in class 422, subclass 68 would also be classified in class 435, subclass 6; and ii) the fact that the computer searching software used by the Examiner enables the Examiner to combine the search for patents in multiple subclasses without having to view duplicates, the search of the extra subclass(es) would not amount to an undue burden on the Examiner to consider all of pending claims 1-24 and 34-36. As such, Applicants respectfully request that the Examiner rejoins Groups I and III with elected Group II.

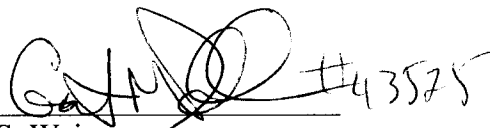
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Garth M. Dahlen, Ph.D., Esq., Registration No 43,575 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: October 20, 2006

Respectfully submitted,

By  #43575  
Marc S. Weiner  
Registration No.: 32,181 for  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant